

RESTRICTION OF LABOR RIGHTS UNDER MARTIAL LAW: A CONSTITUTIONAL AND LEGAL PERSPECTIVE

Pleskun Oleksandr, Slobodianyuk Tetiana

DOI: <https://doi.org/10.61345/1339-7915.2026.1.21>

Annotation. The article examines the constitutional and legal foundations for restricting labor rights during the period of martial law in Ukraine. Under wartime conditions, labor relations undergo significant changes driven by the need to ensure the state's defense capability, adapt the labor market to security challenges, and support the functioning of critical sectors of the economy, which requires prompt responses to social and labor risks. Particular importance is attached to the flexibility of labor law regulation, which makes it possible to quickly modify the organization of production processes and ensure the continuity of enterprise activities under conditions of increased danger.

The study analyzes legal mechanisms that enable the state to temporarily restrict certain labor rights of employees and employers, including issues of compulsory labor engagement, changes in working hours, the introduction of flexible work arrangements, remote and home-based work, suspension of employment contracts, and restrictions on the right to strike.

The relationship between these restrictions and fundamental constitutional guarantees—such as the right to work, freedom of labor, the right to social protection, and decent working conditions—is examined, taking into account the principles of proportionality, necessity, and legal balance between public interests and human rights. It is emphasized that any restrictions must be temporary in nature, clearly defined by law, and consistent with the democratic standards of the rule of law.

Particular attention is paid to the analysis of Ukraine's regulatory framework, including legislation on the legal regime of martial law and specific provisions of labor law, decisions of the Constitutional Court of Ukraine, judicial practice, as well as international legal standards in the field of labor. The practice of applying the relevant norms by courts of general jurisdiction is also examined, making it possible to identify trends in law enforcement and problematic aspects of protecting workers' rights.

The article highlights existing inconsistencies in law enforcement practice, problems of effective control over compliance with labor rights, the limited capacity of state supervision mechanisms under martial law, and the risks of abuse by employers, particularly with regard to unlawful dismissal, non-payment of wages, or forced transfer to other working conditions. Directions for improving legislation and law enforcement practice are outlined.

Key words: martial law, labor rights, restriction of rights, constitutional law, right to work, freedom of labor, labor legislation.

1. Introduction.

Martial law creates extraordinary challenges for the state's legal system, particularly in the field of labor relations. The issue of restricting labor rights becomes especially relevant in light of the need to mobilize resources, adapt the labor market, and ensure the functioning of key sectors of the economy and defense. Constitutional guarantees of human rights, including freedom and safety of labor, acquire a new dimension under conditions of threats to national security. The practice of applying such restrictions requires not

only legal analysis but also an assessment of their compliance with the fundamental principles of the Constitution of Ukraine and international standards. Thus, the study of mechanisms for restricting labor rights during martial law is important for ensuring a balance between the protection of human rights and the obligations of the state.

2. Analysis of scientific publications.

Contemporary research on the restriction of labor rights and the legal regulation of labor relations under martial law is multifaceted and encompasses both theoretical-legal and practical aspects.

One of the key sources is the work of S. Bortnyk, which examines the specific features of legal regulation of labor relations under martial law, in particular restrictions on the right to work and the right to strike, as well as the impact of the Law of Ukraine “On the Organization of Labor Relations under Martial Law” No. 2136-IX of March 15, 2022 (hereinafter – Law No. 2136-IX) on labor guarantees. In particular, the scholar concludes, among other things, that the experience of introducing martial law in the country has revealed a number of both practical and theoretical-legal problems, including issues related to the unambiguous understanding of the legal foundations of martial law by relevant subjects, as well as the procedure for its introduction and termination under the conditions that have developed in the country [1, p. 116].

The research of M. Dyban is devoted to the problems of guaranteeing workers’ rights, including those related to working time, rest time, and remuneration, which are critically important during martial law [2, pp. 134–142]. The author emphasizes the need to adapt legislation to ensure a balance between employees’ rights and the security needs of the state.

A. Andrushko, in his publication, analyzes labor relations during martial law, highlighting issues of conclusion, suspension, and termination of employment contracts, as well as mechanisms for ensuring labor guarantees under conditions of a changed organization of work. Emphasizing the relevance of this issue, the author concludes that the topic is also актуал due to Ukraine obtaining the status of a candidate for accession to the European Union; therefore, compliance with European Union standards in the field of labor relations is important on the eve of the adoption of a new Labor Code of Ukraine [3, p. 148].

I. V. Nazarenko and K. Yu. Melnyk examine legal guarantees of employees in the areas of working time, rest, and remuneration, and outline the problems of implementing these rights under martial law, noting that ensuring the effectiveness of legal guarantees of workers’ rights in the field of labor—particularly regarding working time, rest periods, and remuneration—is an important condition for the return of citizens from abroad and the effective performance of employees in Ukraine [4, p. 70].

Thus, the analysis of scholarly works allows us to conclude that labor rights under martial law are temporarily restricted by law, while the legislation provides certain guarantees to maintain a balance between the interests of the state and those of employees.

3. The aim of the work.

The purpose of the article is to provide a comprehensive constitutional and legal analysis of the restriction of labor rights under martial law, to identify the legal grounds and limits of such restrictions, and to formulate recommendations for their improvement.

4. Review and discussion.

Article 64 of the Constitution of Ukraine establishes that, under conditions of martial law or a state of emergency, certain restrictions on rights and freedoms may be imposed, with an indication of the duration of such restrictions [5].

The regulation of labor rights under martial law is determined by a number of legislative acts, primarily Law No. 2136-IX, which establishes the peculiarities of applying certain provisions of the Labor Code during martial law [6]. Law No. 2136-IX provides that, for the duration of martial law, restrictions are introduced on the constitutional rights and freedoms of individuals and citizens guaranteed by Articles 43 and 44 of the Constitution of Ukraine, namely the right to work and the right to strike.

It is also worth mentioning the Law of Ukraine “On the Legal Regime of Martial Law” No. 389-VII of May 12, 2015 [7], which defines the general framework for restricting rights and freedoms during martial law, including their temporary modification to ensure national security. According to this law, restrictions must be proportional and lawful and cannot be applied arbitrarily.

The Constitutional Court of Ukraine (CCU) plays an important role in protecting labor rights as constitutional guarantees. In its decision of December 11, 2025, No. 1-r/2025, the CCU emphasized that the right to work, to safe working conditions, to remuneration, and to timely receipt of wages are integral elements of a worker’s constitutional rights (Art. 43 and Part 1 of Art. 55 of the Constitution of Ukraine), and that state-imposed restrictions must be objectively justified and proportionate. The Court also noted that the criterion of “reasonableness” of a legislative restriction, such as the deadline for bringing a case to court, must be assessed in light of martial law conditions but should not deprive a worker of effective access to justice [8].

The case law of the Supreme Court confirms current trends in the application of labor legislation under martial law. In its ruling of October 2, 2024, in Case No. 755/8135/22, the Supreme Court noted that the concept of “change of essential working conditions” includes changes in remuneration conditions and emphasized that certain provisions of the Labor Code do not apply during martial law by virtue of Law No. 2136-IX (for example, notifying employees about changes in working conditions) [9]. This indicates that courts take into account the special legal regime, but must not violate constitutional guarantees without sufficient legislative basis.

Supreme Court judges have also repeatedly highlighted international labor standards as an important element in resolving disputes during martial law. The significance of applying international labor law norms in labor cases was emphasized during training sessions and judicial briefings involving representatives of the International Labour Organization (ILO) and the National School of Judges of Ukraine. This contributes to international standards serving as a guiding reference in national practice.

As a member of the International Labour Organization (ILO) and a participant in international legal agreements, including the European Convention on Human Rights, Ukraine is obliged to uphold basic standards of workers’ rights even under challenging conditions. In particular, Article 15 of the European Convention on Human Rights provides that, in time of war or other public emergency threatening the life of the nation, any High Contracting Party may take measures derogating from its obligations under the Convention, but only to the extent strictly required by the exigencies of the situation and provided that such measures are not inconsistent with its other obligations under international law [10].

The case law of the Supreme Court of Ukraine indicates a growing emphasis on interpreting international standards within the national context. This helps judges resolve disputes in accordance with these standards and harmonize national legislation with international norms.

Despite the existence of legislative regulation of labor relations during martial law, its practical application reveals a number of significant contradictions and problems:

1. Contradictions in the interpretation of laws. Law of Ukraine No. 2136-IX provides for temporary changes in the procedures for concluding, modifying, and terminating employment contracts. However, courts and employers often interpret certain provisions differently, particularly regarding changes to essential working conditions, working hours, and leave. This creates unpredictability in the legal regime and increases the risk of violations of employees’ rights.

2. Problems in monitoring compliance with labor rights. Existing state supervisory bodies do not always have the capacity to effectively monitor compliance with labor rights, especially during wartime, when

many enterprises operate in critically important sectors of the economy, and work processes are often remote or incompletely documented.

3. Risks of employer abuse. Temporary restrictions on labor rights and simplified procedures for changing working conditions create opportunities for abuse by employers, including transferring employees to other positions without consent, reducing wages, failing to pay compensation, and neglecting minimum labor guarantees.

5. Conclusions.

The restriction of labor rights under martial law has a constitutional and legal basis and is aimed at ensuring national security and defense. However, their application requires clear regulatory framework, compliance with the principle of proportionality, and consideration of international standards. It is necessary to improve legislation, strengthen control mechanisms, and ensure an adequate balance between the protection of workers' rights and public interests. Raising the legal awareness of employers and employees through training, consultations, and informational campaigns that explain the rights and obligations of the parties during martial law will also be helpful. Such an approach will reduce conflicts and violations of labor rights and contribute to strengthening Ukraine's legal system under emergency conditions.

References:

1. Bortnyk, S. M. (2022). On the issue of the features of legal regulation of labor relations under martial law. *Visnyk Kharkivskoho natsionalnoho universytetu vnutrishnikh sprav – Bulletin of Kharkiv National University of Internal Affairs*, 97(2), 106–117.
2. Dyban, M. (2023). Legal regulation of labor relations during martial law: Current issues. *Naukovi pratsi Kyivskoho aviatsiinoho instytutu. Serii: Pravo – Scientific Works of Kyiv Aviation Institute. Series: Law*, 2(71), 134–142.
3. Andrushko, A. (2022). Labor relations during martial law. *Naukovyi visnyk Uzhhorodskoho natsionalnoho universytetu. Serii: Pravo – Scientific Bulletin of Uzhhorod National University. Series: Law*, 147–150.
4. Nazarenko, I. V., & Melnyk, K. Yu. (2023). Legal guarantees of workers' rights in the field of working time, rest time, and remuneration during martial law. *Visnyk Kharkivskoho natsionalnoho universytetu vnutrishnikh sprav – Bulletin of Kharkiv National University of Internal Affairs*, 3(102), 70–80.
5. *Konstytutsiia Ukrainy: Zakon Ukrainy vid 28.06.1996 No. 254k/96-VR [Constitution of Ukraine: Law of Ukraine No. 254k/96-VR of June 28, 1996]. (1996). <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>*
6. Verkhovna Rada of Ukraine. (2022, March 15). Pro orhanizatsiiu trudovykh vidnosyn v umovakh voiennoho stanu: Zakon Ukrainy No. 2136-IX [On the organization of labor relations under martial law: Law of Ukraine No. 2136-IX of March 15, 2022]. <https://zakon.rada.gov.ua/laws/show/2136-20>
7. Verkhovna Rada of Ukraine. (2015, May 12). Pro pravovyi rezhym voiennoho stanu: Zakon Ukrainy No. 389-VIII [On the legal regime of martial law: Law of Ukraine No. 389-VIII of May 12, 2015]. <https://zakon.rada.gov.ua/laws/show/389-19>
8. Constitutional Court of Ukraine. (2025, December 11). Rishennia Konstytutsiinoho Sudu Ukrainy No. 1-r/2025 [Decision of the Constitutional Court of Ukraine No. 1-r/2025]. <https://zakon.rada.gov.ua/laws/show/va01p710-25>
9. Supreme Court of Ukraine. (2024, October 2). Postanova u spravi No. 755/8135/22 [Ruling in case no. 755/8135/22]. https://protocol.ua/ua/postanova_ktss_vp_vid_02_10_2024_roku_u_spravi_755_8135_22

-
10. Council of Europe. (1950, November 4). European convention on human rights. https://zakon.rada.gov.ua/laws/show/995_004

Oleksandr Pleskun,

*Candidate of Legal Sciences, Associate Professor,
Associate Professor of the Department of Fundamental and Branch Juridical Sciences,
Faculty of Law, Humanity and Social Sciences,
"Kremenchuk Mykhailo Ostrohradskyi National University"
E-mail: kafedragun@gmail.com
ORCID: 0000-0001-6152-4957*

Tetiana Slobodianyuk,

*Candidate of Legal Sciences, Associate Professor,
Associate Professor of the Department of Fundamental and Branch Juridical Sciences,
Faculty of Law, Humanity and Social Sciences,
"Kremenchuk Mykhailo Ostrohradskyi National University"
E-mail: kafedragun@gmail.com
ORCID: 0000-0003-1838-5781*